

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION**

Robert Adell Brown, )  
                        )  
Plaintiff,           )     **ORDER FOR RULE 26(f) PLANNING  
MEETING AND RULE 16(b)  
SCHEDULING CONFERENCE,  
AND ORDER RE RESOLUTION  
OF DISCOVERY DISPUTES**  
vs.                   )  
                        )  
Flying J Incorporated, )     Case No.: 1:08-cv-059  
                        )  
Defendant.           )

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**IT IS ORDERED:**

**RULE 26(f) MEETING & RULE 16(b) SCHEDULING CONFERENCE**

The court shall hold a Rule 16(b) initial pretrial scheduling/discovery conference on Monday, July 21, 2008, at 10:00 AM CST. The scheduling conference will be conducted via telephone conference call to be initiated by the court. The court will work with the parties at the scheduling conference to establish pretrial deadlines and formulate a scheduling and discovery plan. Attached is a sample scheduling and discovery plan for the parties' reference.

**RESOLUTION OF DISCOVERY DISPUTES**

It is further **ORDERED** that the following steps be undertaken by all parties prior to the filing of any discovery motions:

- 1)     The parties are strongly encouraged to informally resolve all discovery issues and disputes without the necessity of Court intervention. In that regard, the parties are first required to confer and fully comply with Rule 37(a)(2) of the Federal Rules of Civil Procedure and Local Rule 16.1(B)(4) by undertaking a sincere, good faith effort to try to resolve all differences without Court action or intervention;

- 2) In the event that reasonable, good faith efforts have been made by all parties to confer and attempt to resolve any differences, without success, the parties are then required to schedule a telephonic conference with the Magistrate Judge in an effort to try to resolve the discovery dispute prior to the filing of any motions. The parties shall exhaust the first two steps of the process before any motions, briefs, memorandums of law, exhibits, deposition transcripts, or any other discovery materials are filed with the Court.
- 3) If the dispute still cannot be resolved following a telephonic conference with the Magistrate Judge, then the Court (Magistrate Judge) will entertain a motion to compel discovery, motion for sanctions, motion for protective order, or other discovery motions. In connection with the filing of any such motions, the moving party shall first fully comply with all requirements of Rule 37(a)(2) and Local Rule 16.1(B)(4) and shall submit the appropriate certifications to the Court as required by those rules.
- 4) The Court will refuse to hear any discovery motion unless the parties have made a sincere, good faith effort to resolve the dispute and all of the above-identified steps have been strictly complied with. A failure to fully comply with all of the prerequisite steps may result in a denial of any motion with prejudice and may result in an award of costs and reasonable attorney's fees.

Dated this 18th day of June, 2008.

/s/ Charles S. Miller, Jr.

Charles S. Miller, Jr.  
United States Magistrate Judge